

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:09-cr-329

v.

HON. JANET T. NEFF

CHILON CLYDE MITCHELL,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Chilon Clyde Mitchell filed a motion for modification or reduction of sentence pursuant to 18 U.S.C. §3582(c)(2) based on the modification of the Drug Quantity Table with respect to cocaine base (crack cocaine) (Dkt 47). The United States Probation Office filed a Sentence Modification Report (“SMR”) (Dkt 57). Defendant, through counsel, filed a Response to the SMR (Dkt 58), conceding that a reduction of sentence was precluded at this time (*id.* at 1). The government also filed a Response to the SMR (Dkt 59), similarly indicating that Defendant’s sentence may not be reduced (*id.* at 1).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 750 of the United States Sentencing Guidelines modified U.S.S.G. § 2D1.1, the Drug Quantity Table with regard to cocaine base (crack cocaine), and U.S.S.G. § 2D2.1(b). These modifications were made retroactive effective November 1, 2011. U.S.S.G. § 1B1.10(c).

However, as the parties at bar have acknowledged, Defendant is ineligible for a sentence reduction because he was sentenced to the statutory mandatory minimum sentence before the

effective date of Amendment 750. Further, the lower crack cocaine guidelines do not result in an overall lower sentencing guideline range for Defendant. Therefore,

**IT IS HEREBY ORDERED** that Defendant's motion for modification of sentence (Dkt 47) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: April 10, 2013

/s/ Janet T. Neff  
JANET T. NEFF  
United States District Judge